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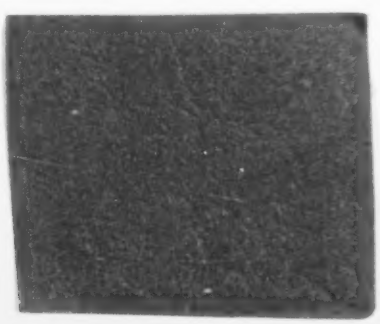
REPORT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR GENOCIDE AND OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF RWANDA AND RWANDAN CITIZENS RESPONSIBLE FOR GENOCIDE AND OTHER SUCH VIOLATIONS COMMITTED IN THE TERRITORY OF NEIGHBOURING STATES BETWEEN 1 JANUARY AND 31 DECEMBER 1994

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the second annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, submitted by the President of the International Criminal Tribunal for Rwanda in accordance with article 32 of its statute (see Security Council resolution 955 (1994), annex), which states:

> "The President of the International Tribunal for Rwanda shall submit an annual report of the International Tribunal for Rwanda to the Security Council and to the General Assembly."



ANNEX

Second annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 covering the period from 1 July 1996 to 30 June 1997, adopted on 6 June 1997

SUMMARY

Since the submission of the last annual report to the General Assembly (A/51/399-S/1996/778), in September 1996, the judicial activities of the Tribunal have increased substantially. So far, 14 indictments against a total of 21 individuals have been confirmed and warrants of arrest have been issued against the accused, with some accused featuring in more than one indictment. Twelve out of those indicted are currently in custody in the Tribunal's Detention Facility in Arusha, United Republic of Tanzania, while one is being held in the United States of America. Two suspects are held in custody in Cameroon, awaiting transfer to the Tribunal's Detention Unit pursuant to an order issued under rule 40 bis. From January 1997 onwards, the two Trial Chambers commenced the trials in three cases. In addition, both Trial Chambers have adjudicated a large number of motions. (Developments which have occurred subsequent to the preparation and adoption of the present report are described in appendix V.)

The Secretary-General on 1 October 1996 appointed Judge Louise Arbour as the new Chief Prosecutor for both the International Criminal Tribunal for Rwanda and the International Tribunal for the former Yugoslavia, thereby replacing Judge Richard Goldstone.

In response to a request by the General Assembly and following complaints from Member States and staff members, auditors of the Office of Internal Oversight Investigation undertook an extensive investigation into affairs of the International Criminal Tribunal for Rwanda. As detailed in its report (A/51/789, annex), the Office uncovered serious operational deficiencies and mismanagement in the Tribunal's administration. The Office further found a lack of cooperation between the Registry and the Office of the Prosecutor and stated that the effectiveness of the Tribunal had been affected by the short-term funding and lack of a proper infrastructure in the offices at both Arusha and Kigali. In its report the Office put forward 26 recommendations for improvement of the conditions (ibid., chap. VI), some of which have been implemented or are in the process of being implemented.

In the wake of the findings of the report, the Secretary-General, on 26 February 1997, appointed Mr. Agwu U. Okali as the new Registrar in the place of Mr. Adronico Adede, and on 20 March 1997 Mr. Bernard Muna as Deputy

Prosecutor in place of Judge Honoré Rokotomanana. Further measures of reorganization of the Tribunal's administrative structure and replacement of staff members were taken by the new Registrar in implementation of the report of the Office of Internal Oversight Services.

In order to strengthen the mutual relationship between the International Criminal Tribunal for Rwanda and the Government of the Republic of Rwanda, President Laity Kama, accompanied by Vice-President Yakov Ostrovsky, and Judge Lennart Aspegren travelled to Kigali and met with Mr. Pasteur Bizimungu, President of the Republic of Rwanda, and apprised him of the current judicial activities of the Tribunal and the difficulties faced by it. In addition, the Tribunal continued to receive a large number of visitors, reflecting the growing public interest in its activities. Among the most prominent visitors were Mr. Ismail Razali, then President of the General Assembly, Mrs. Hillary Clinton, the Prime Ministers of Uganda and the United Republic of Tanzania and the Ambassador of Rwanda to the United Republic.

During his visit to United Nations Headquarters, President Laity Kama was able to meet with the President of the General Assembly and Mr. Zbigniew Włosowicz, President of the Security Council, in February 1997. In addition, he also met with the former Secretary-General, Mr. Boutros Boutros-Ghali, and with the current Secretary-General, Mr. Kofi Annan, and informed them of the problems faced by the International Tribunal.

Four judges of the Tribunal - President Laity Kama, Judge Yakov Ostrovsky, Judge Lennart Aspegren and Judge Navanethem Pillay - participated in a conference on "Securing State Cooperation and Compliance: International Criminal Tribunal for Rwanda" organized at Cape Town, South Africa, on 24 and 25 February 1997 by the Parliamentarians for Global Action in cooperation with the South African Government.

Several Governments have made very valuable contributions to the Tribunal's Trust Fund (see appendix I) and donations in kind, including the Tribunal's library, which has been established through a donation from the Danish Government.

In June 1997 the Tribunal brought out its first newsletter containing information about the activities of the Tribunal. In addition, the Tribunal has a monthly update of events.

The Tribunal's Victims and Witnesses Protection Unit became fully operational in November 1996 with the recruitment of its staff. The Unit is primarily engaged in providing protection to the witnesses during their testimony at the trials. Subsequently, on their return to Rwanda, the Unit monitors their security situation.

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I. INTRODUCTION

1. The International Criminal Tribunal for Rwanda was established by the Security Council, acting under Chapter VII of the Charter of the United Nations (resolution 955 (1994) of 8 November 1994), with the sole purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994. In the same resolution, the Security Council adopted the statute of the Tribunal and requested the Secretary-General to make practical arrangements for the effective functioning of the Tribunal.

2. By its resolution 977 (1995) of 22 February 1995, the Security Council decided that, subject to the conclusion of appropriate arrangements between the United Nations and the Government of the United Republic of Tanzania, the Tribunal would have its seat at Arusha, United Republic of Tanzania. Consequently, on 31 August 1995, an Agreement between the United Nations and the United Republic of Tanzania concerning the headquarters of the International Criminal Tribunal for Rwanda (A/51/399-S/1996/778, appendix) was signed in New York. Pursuant to the Agreement, the Registrar of the Tribunal and the management of the Arusha International Conference Centre (AICC) signed a lease on 31 October 1995 providing for the use by the Tribunal of the Centre's premises. The signing of the lease enabled the Tribunal to start functioning at its headquarters as from 27 November 1995.

3. By its resolution 978 (1995) of 27 February 1995, the Security Council urged States to arrest and detain persons found within their territory against whom there was sufficient evidence of responsibility for acts of violence within the jurisdiction of the Tribunal, and to inform the Secretary-General and the Tribunal's Prosecutor of the identity of any such persons detained and of the nature of the crimes believed to have been committed by them.

II. ORGANIZATION OF THE TRIBUNAL

4. As stipulated in the statute, the Tribunal consists of: (a) the Chambers, comprising two Trial Chambers and an Appeals Chamber; (b) the Prosecutor; and (c) the Registrar.

A. The Chambers

5. On 24 and 25 May 1995, the General Assembly elected six judges for a four-year term of office: Judges Lennart Aspegren, Laïty Kama, Tafazzal H. Khan, Yakov Ostrovsky, Navanethem Pillay and William Hussein Sekule. Trial Chamber 1 was composed of Judge Laïty Kama as President of the Chamber, Judge Lennart Aspegren and Judge Navanethem Pillay, while Trial Chamber 2 was composed of Judge William H. Sekule as President of the Chamber, Judge Yakov A. Ostrovsky and Judge Tafazzal H. Khan. During the second plenary session of the Tribunal in 1995, Judge Laïty Kama was elected President of the

Tribunal and Judge Yakov Ostrovsky Vice-President. Both judges were re-elected to these posts during the fourth plenary session in Arusha in June 1997. The Appeals Chamber is currently composed of Judge Antonio Cassese as President of the Appeals Chamber, Judge Gabrielle Kirk McDonald, Judge Lal C. Vohrah, Judge Haopei Li and Judge Ninian Stephen.

B. The Prosecutor

6. Since 1 October 1996, Judge Louise Arbour has served as Chief Prosecutor for both the International Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, based at The Hague, while Mr. Bernard Muna has served as Deputy Prosecutor for the Rwanda Tribunal in Kigali since 29 April 1997, after the resignation of Mr. Honoré Rakotomanana. The new Deputy Prosecutor took office on 12 May 1997.

C. The Registrar

7. Following the resignation of Mr. Andronico O. Adede, Mr. Agwu U. Okali has served as Registrar as of 26 February 1997.

III. THE STATUTE

8. The statute (S/1994/1405, appendix I) establishes in article 1 that the Tribunal shall have the power to prosecute individual persons responsible for genocide and serious violations of international humanitarian law, including article 3 common to the four Geneva Conventions of 1949 and Additional Protocol II thereto. The Security Council thereby determined that the body of international humanitarian law applies directly also to internal armed conflicts (see articles 3 and 4 of the statute). Appendix II to the present report contains a description of the crimes punishable by the Tribunal.

IV. THE WORK OF THE CHAMBERS

A. Decisions under rule 40 bis

9. After confirmation of the indictment against Ferdinand Nahimana and Anatole Nsengiyumva, Judge Laity Kama further issued rule 40 bis orders on 15 July 1996 in the cases against Théoneste Bagosora and André Ntagerura. Furthermore, rule 40 bis orders were issued on 3 March 1997 by Judge Aspegren for Jean Bosco Barayagwiza (case No. ICTR-97-19-DP) and Laurent Semanza (case No. ICTR-97-20-DP) both of whom are still being held in Cameroon and awaiting surrender to the Tribunal.

B. The indictments

10. The Tribunal has to date issued 14 indictments concerning 21 individuals. Twelve detainees are currently being held at the United Nations Detention

Facility in Arusha. Appendix III to the present report presents details of the various offences with which the detainees are being charged.

C. The Trials

11. The first trial to begin before the Tribunal was that of Jean-Paul Akayesu, which began on 9 January 1997 (case No. ICTR-96-4-T). The trial of Georges Anderson Nderubumwe Rutaganda (case No. ICTR-96-3-T) then followed, beginning on 18 March 1997. Trial Chamber 1 sat on the bench for both of these trials. On 9 April 1997, the trial against Clément Kayishema and Obed Ruzindana (case No. ICTR-95-1-T) began in Trial Chamber 2.

1. The Prosecutor v. Jean-Paul Akayesu (ICTR-96-4-T)

12. Following the Prosecutor's presentation of 26 eyewitnesses, 3 general witnesses and 1 expert witness, the Trial Chamber on 17 June 1997 granted the Prosecutor's request to amend the indictment so as to include three counts of crimes against humanity and violations of article 3 common to the Geneva Conventions/Additional Protocol II for rape, inhumane acts and indecent assault. The trial was adjourned to a later date to allow the Defence Counsel extra time to prepare for this amendment.

Preliminary motions and decisions

13. In application of the provisos contained in articles 19 and 21 of the statute of the Tribunal and rules 69 and 75 of the Rules of Procedure and Evidence, measures for the protection of witnesses and victims were ordered by the Tribunal on 27 September 1997. The order stipulated, inter alia, that pseudonyms given to the witnesses in the indictment and the supporting documentation be used whenever references were made to the said witnesses during the proceedings and discussions among the parties. Furthermore, restrictions were placed on the public and the media with regard to the sketching, photographing and audio and visual recording of the protected witnesses.

14. The Tribunal applied rule 90 bis on 29 October 1996 and ordered that a witness, who at the time was being detained in the Taba Commune Prison in the Prefecture of Gitarama in Rwanda, be transferred temporarily to the Tribunal's Detention Facilities in Arusha, in order to testify in the trial against the accused. The Government of Rwanda was requested to comply with the order and to arrange for the transfer in liaison with the Government of the United Republic of Tanzania and the Registrar.

15. Pursuant to article 19 of the Directive on Assignment of Defence Counsel, the Chamber may only in exceptional cases grant the request of an accused to be assigned another counsel for his defence. By its decisions of 31 October 1996 and 20 November 1996, Trial Chamber 1 found such exceptional cases to be in existence and instructed the Registrar immediately to assign a new Defence Counsel to the accused.

Decisions during trial

16. After the beginning of the trial on its merits, the Tribunal put forth interim measures on 13 January 1997 by which the accused Jean-Paul Akayesu was allowed temporarily to cross-examine the Prosecution witnesses himself.

17. A third request was made by the accused for a new change of assigned counsel, but as the accused had failed to prove the existence of exceptional circumstances, the Tribunal, by its decision of 16 January 1997, dismissed the request and ordered that the counsel assigned to the case be maintained.

18. By its decision of 28 January 1997, the Trial Chamber, pursuant to rules 89 (a) and (c), and 98, requested, on the one hand, that the Prosecutor submit all written witness statements in the instant case available to both parties and, on the other hand, that all such statements to which reference had been made by either the Prosecutor or the Defence shall be admitted as evidence and form part of the record.

19. The order was reaffirmed and given further interpretation by the subsequent decision of 6 March 1997 on the Prosecutor's motion to reconsider and rescind the order of 28 January 1997.

2. The Prosecutor v. Georges Anderson Rutaganda (ICTR-96-3-T)

20. The trial in this case began on 18 March 1997 with the presentation of the Prosecution's case, including the hearing of three witnesses. In order to give the assigned defence counsel more time to prepare the case, the trial was adjourned on 27 March 1997 to a later date.

Preliminary motions and decisions

21. On 7 February 1997, the Tribunal dismissed a further motion submitted by the defence counsel requesting that the accused be provisionally released on medical grounds. Previously, on 25 September 1996, the Trial Chamber had dismissed a similar motion for lack of sufficient demonstration of exceptional circumstances pursuant to rule 65 of the Rules of Procedure and Evidence. The Trial Chamber in this instance was of the opinion that the accused was being offered the necessary and adequate medical treatment by the Tribunal's Medical Officer in close and constant cooperation with local physicians and foreign specialized medical institutions. In application of rule 65 (b), the request was dismissed.

22. During the hearing held on 4 March 1997 before the Judges of Trial Chamber 1, counsel for the accused Rutaganda presented an extremely urgent motion requesting that the deposition of 16 witnesses called by the defence to testify for the accused be taken in writing or by teleconference. Furthermore the defence submitted that the witnesses in question were living in the Tingi-Tingi refugee camp in Lubutu, Zaire. The security conditions at the camp were said to be precarious. It was submitted by the defence, moreover, that, even though the extremely urgent nature of the motion had impressed upon the Registry, it had not been heard in time since the Tingi-Tingi camp, where the

16 witnesses were based, had been attacked by the time the motion was heard. As a result, the motion was exhausted as the Defence was no longer able to locate the said witnesses.

23. The Trial Chamber, stressing the full respect of the rights of the accused and in application of rule 54 regarding the issue of orders and warrants by the Tribunal, requested, inter alia, the cooperation of States, the United Nations, including the Office of the United Nations High Commissioner for Refugees (UNHCR), and any other organization that could be of help in locating and isolating those witnesses who had disappeared following the attack on the Tingi-Tingi camp.

24. Since the issuance of the decision, the security conditions for Rwandan refugees in the Democratic Republic of the Congo have deteriorated and their whereabouts have become unsure. The defence, in cooperation with the Victim and Witnesses Support Unit of the Tribunal, presented the aforementioned decision to a number of organizations in requesting help in locating particular witnesses. To date, assurances of full cooperation have been received from the Government of Kenya and commitment pledges have been made by a number of United Nations agencies, namely ANTHEA and the United Nations Great Lakes Emergency Office, to assist the Defence in its endeavours with logistical support when needed.

3. The Prosecutor v. Clément Kayishema and Obed Ruzindana (ICTR-95-1-T)

25. Trial Chamber 2 began the Tribunal's third trial, the trial against Clément Kayishema and Obed Ruzindana (the two only indictees to have been arrested so far in case No. ICTR-95-1-T) on 9 April 1997. After having heard 15 witnesses brought by the Prosecution, the trial was adjourned to allow more time for the defence counsel to prepare their case.

Preliminary motions and decisions

26. On 6 November 1996, after Ruzindana's arrest and transfer to Arusha, Trial Chamber 1 decided to join the cases against the two accused in order to try them together, and to set the date for the beginning of the joint trial for 20 February 1997.

27. The Trial Chamber further decided, on that same date, to order a number of protective measures for victims and witnesses in the case against Clément Kayishema, including the non-disclosure of the identities of witnesses to the public and the media and application of pseudonyms to the witnesses during the hearings.

28. Finally, on 6 November 1996, the Trial Chamber dismissed the preliminary motion filed on 26 July 1996 by the counsel for the defence of Clément Kayishema, in which the Defence had requested the annulment of the proceedings against his client on the grounds that the Defence had not been provided with the necessary and supporting documentation by the Prosecutor in sufficient time to allow for a thorough preparation of his defence. In its decision, the Trial Chamber ruled that failure of the Prosecutor to supply the

Defence with all necessary documents before the expiration of the 60-day limit stipulated in rule 73 (b) of the Rules of Procedure and Evidence did not preclude the Defence from seeking relief through preliminary motions in order to gain sufficient time to prepare the case for trial. Rule 73 on submission of preliminary motions, in other words, was only fully available to the Defence when the Prosecution had first submitted copies of the supporting material and witness statements to the Defence in compliance with rule 66.

29. However, owing to the unavailability of a second courtroom at the Tribunal, which would allow each Trial Chamber to hear separate cases simultaneously, and also in compliance with a request submitted by the Defence counsel to be given more time to prepare the case, the Trial Chamber decided to postpone the case from 20 February 1997 to 9 April 1997.

30. A decision on witness protection, similar to the decision rendered by Trial Chamber 1 in the case against Kayishema, was made in respect of Ruzindana by Trial Chamber 2 on 12 March 1997.

31. On 30 December 1996, two days after the expiration of the 60-day limit for submission of preliminary motions stipulated in rule 73 (b) of the Rules of Procedure and Evidence, the counsel for the defence of Obed Ruzindana filed a preliminary motion raising a number of objections against the form of the indictment and also against the Prosecutor's joinder of accused in the two indictments against Ruzindana. The motion was heard on 14 March 1997 by Trial Chamber 2, which decided to suspend the time limit and thus to hear the motion on its merits, but nevertheless dismissed the motion by finding that no legal objections could be sustained against the form of the indictment and further by establishing that the Prosecutor's joinder of several accused in one indictment was not, as claimed by the defence, in violation of the principle of non bis in idem.

32. As one of the co-accused in the second indictment against Obed Ruzindana, Mr. Gérard Ntakirutimana had been arrested in Côte d'Ivoire on 29 October 1996 and subsequently transferred to the Tribunal on 30 November 1996, the Prosecutor filed a motion before Trial Chamber 1 on 17 February 1997 to join all three accused, i.e., Clément Kayishema, Obed Ruzindana and Gérard Ntakirutimana, in one case and try them together, maintaining that they were all accused for the same crimes in Kibuye in a coherent sequence of events. The Trial Chamber, however, dismissed the motion on 27 March 1997 on the ground that there was insufficient evidence to prove that they had actually been engaged in a concerted crime committed jointly at one particular time and place.

33. On 26 March 1997, the Prosecutor submitted a motion before Trial Chamber 2 to introduce a consolidated and superseding indictment, in which one count had been withdrawn (conspiracy to commit genocide) and the number of the remaining counts raised against each of the two accused had been condensed to only five common counts. The Trial Chamber, however, rejected this proposal on 10 April 1997 on the grounds that it deviated in certain facts from the first amended indictment and further that the new indictment had come out as less transparent in its causal linkage between the criminal actions attributed to the two accused and the counts raised against them. The Prosecution was asked, however, to produce a refined version of the first amended indictment confirmed

on 6 May 1996 so as to provide for an indictment with only the names of the two accused and without the withdrawn charge for conspiracy to genocide.

Decisions during trial

34. During the examination, cross-examination and re-examination of the Prosecutor's witnesses, the Defence filed a motion on 16 April 1997 concerning the probative value of oral witness statements in court which deviated from the same witnesses' earlier statements to the Prosecutor's investigators. The Trial Chamber decided on 21 April 1997 that, in case of substantial deviations between the witnesses' written and oral statements, any of the parties to the trial could bring the disputed part of the written statement as evidence, the probative value of which would then be determined by the Trial Chamber at a later stage.

35. On 23 April 1997, the Defence filed a motion claiming that the relatively larger allocation of Tribunal resources to the Prosecutor compared with the resources provided to the Defence was in violation of the principle of equality between the parties to the trial. On 5 May 1997, the Chamber dismissed the motion on the grounds that equality of the parties before the Tribunal did not include or entail equality of financial means and because the Defence had failed to prove that it had been denied the means to engage investigators.

D. Regulatory activities of the judges

36. During the third plenary session held at The Hague from 1 to 5 July 1996, the 11 judges of the Rwanda Tribunal (6 judges of the two Trial Chambers and the 5 judges of the Appeals Chamber) adopted a number of amendments to the Rules of Procedure and Evidence and the Directive on the Assignment of Counsel.

E. Other activities of the judges

Contacts made by the President of the Tribunal with Governments and international organizations

37. The President, Judge Laity Kama, accompanied by the Vice-President, Judge Yakov Ostrovsky, and Judge Lennart Aspegren, met with Mr. Pasteur Bizimungu, President of the Republic of Rwanda, in order to inform him of the current judicial activities, as well as of the difficulties the Tribunal has encountered in carrying out its mission.

38. The President also met with official representatives of the Government of the United Republic of Tanzania, host country to the Tribunal, and expressed his sincere gratitude for their material and diplomatic support.

39. During the presentation of the first annual report to the General Assembly (A/51/399-S/1996/778), the President called upon all States to cooperate with the Tribunal. He renewed this request on several occasions and in particular at a meeting with the ambassadors accredited to the United Nations at a gathering of representatives of the African Group of States and during a conference

jointly organized by the Organization of African Unity (OAU) and the International Committee of the Red Cross (ICRC) at Addis Ababa in April 1997.

40. The President further met with the President of the General Assembly, Mr. Razali Ismail, who actively and strongly supported the Tribunal. Mr. Razali visited the Arusha headquarters in January 1997. Judge Kama also met with the then President of the Security Council, Mr. Zbigniew Włosowicz, in February 1996, and finally, with the successive Secretaries-General of the United Nations, Mr. Boutros Boutros-Ghali in November 1996 and in February 1997 with Mr. Kofi Annan, with whom he was able to discuss the problems encountered by the Tribunal and the results obtained despite those difficulties.

41. In April 1997, the President met with Mr. Salim Ahmed Salim, Secretary-General of the Organization of African Unity, who assured him of OAU's support.

42. In addition to the above meetings, numerous other meetings were held with representatives of various organizations active in the areas of justice, human rights, humanitarian law and peacekeeping.

43. On 24 and 25 February 1997, Judges Laity Kama, Yakov Ostrovsky, Lennart Aspegren and Navanethem Pillay were guest speakers at a conference on "Securing State Cooperation and Compliance: The International Criminal Tribunal for Rwanda" hosted by the Parliamentarians for Global Action at Cape Town in cooperation with the Government of South Africa. The principal aim of the conference was to generate a better understanding of the work of the Tribunal and to facilitate the task of drafting national legislation necessary to incorporate the statute of the Tribunal.

44. Throughout the year, the Tribunal's judges have met with representatives of international press agencies and the mass media, and members of academia and have received a number of dignitaries, including Mrs. Hillary Rodham Clinton, the Ambassador of Rwanda to the United Republic of Tanzania and the Prime Ministers of Uganda and the United Republic, among other representatives of Governments. Many interviews to newspapers, radio and television have also been given by judges.

V. THE PROSECUTOR

A. Organization of the Office of the Prosecutor

45. The Office of the Prosecutor comprises three main sections: the Prosecution Section, the Legal Section and the Investigation Section.

46. The Prosecution Section is currently composed of three Senior Trial Attorneys and five Trial Attorneys.

47. The Legal Section currently consists of five lawyers, and works closely with the Legal Section in The Hague. It advises on matters of indictments, motions and all legal issues related to the statute or the Rules of Procedure and Evidence. Lawyers from The Hague also regularly participate in indictment reviews and in providing legal advice. The lawyers from the Legal Section of

the Office of the Prosecutor for Rwanda also work on legal issues being discussed in The Hague. This information exchange allows for harmonization of legal solutions.

48. The Investigation Section is headed by the Director of Investigations, with the assistance of two Commanders. The Investigation Section is divided into several teams. Currently, there are eight teams. The Commanders allocate the task of supervising the teams, in consultation with the Team Leaders. The section currently has 52 investigators, approximately 20 of whom were seconded to the Office of the Prosecutor by their respective Governments. However, these investigators are recruited by their Government for a period of only six months, which raises a problem of continuity. Moreover, as of the end of July 1997, all but three or four will have returned home. In addition to the 52 investigators, is a 7-member investigative support team as well as nine lawyers assigned to the investigative teams to provide legal counsel and draft indictments. Under the new proposals made by the Office of the Prosecutor, at least 104 additional investigators will be needed in order to attain the stated objectives. At any rate, with the departure of the above-mentioned persons, the Office of the Prosecutor will have been reduced to somewhat more than 30 investigators by the end of July, which is alarming given the need for continuity in the major task to be accomplished.

B. Operation of the Office

49. There is a clear lack of resources, including vehicles in good condition, photocopiers, shredders, computer equipment and office supplies. Most of the vehicles are in poor condition. Travel inside the country requires vehicles in good working condition both for the security of the investigators and for the success of the mission. Renting vehicles, as is the current practice, is not a realistic solution in the long term.

50. November 1996 was characterized by the return of the refugees, which had a direct impact on investigations and access to witnesses. Investigations are continuing nevertheless, but under escort by the military or United Nations security personnel.

51. Two witnesses in the Akayesu and Rutaganda cases have been killed. Security is therefore of great concern and cooperation with the Government of Rwanda in this matter should be reinforced. A special unit has been created to this end, which should also be equipped with unmarked vehicles and a separate radio network for coordination operations. The possibility of a VHF/HF radio link with Arusha deserves to be studied.

52. At the initiative of the Prosecutor, Justice Louise Arbour, three workshops were organized. The first, on trial advocacy skills in common law, was held from 23 to 26 November 1996. The second, on sexual violence, was held from 23 to 26 March 1997. Following this second workshop, a special team on sexual violence was set up. A third workshop on investigative strategies was held from 19 to 21 May 1997. The outcome of this last seminar was that, after stocktaking, the Prosecutor decided to reinforce and refocus the investigations

on people who were in positions of authority at the national level during the genocide.

VI. THE REGISTRAR

A. Investigation conducted by the Office of Internal Oversight Services

53. After the receipt of numerous complaints by staff members and Member States, and at the request of the General Assembly, the Office of Internal Oversight Services investigated the functioning of the International Criminal Tribunal for Rwanda. The findings of the Office revealed gross mismanagement in almost all areas of the Tribunal and frequent violations of relevant United Nations rules and regulations.

54. The report (A/51/789, annex) categorically identified the numerous operational deficiencies of substantial nature in the management of the Tribunal, from its inception through the time of the investigation.

55. The report also disclosed that all sections under the purview of the Registry (Finance, General Services, Personnel, Procurement and Security) were not functioning effectively. In fact, the report stated that "not a single administrative area of the Registry functioned effectively". These Sections had not installed the existing United Nations procedures dealing with the accounting and budget (ibid., para. 9). As a result there was an absence of internal control mechanisms and flagrant violations of United Nations procedures.

56. The report revealed that there was a need for substantial change in the Tribunal. The Office of Internal Oversight Services also decided to conduct a follow-up review to determine whether the recommendations contained in its report were being implemented and whether there was a need for any additional recommendations. The review was supposed to take place in the second quarter of 1997 but was postponed to the third quarter.

57. On the basis of the recommendations contained in the report, Secretary-General Annan requested and received the resignation of both the Registrar and the Deputy Prosecutor. He then appointed Mr. Agwu U. Okali and Mr. Bernard Muna respectively to those posts. In addition the new Registrar instigated structural changes and replaced some senior staff members. The Tribunal began to recruit qualified staff, although many sections still remain understaffed. Finally, improved financial control measures were implemented within the Tribunal.

58. In the report of the Office it was recognized that "the Registry is not an independent body in itself and its objective is to service the two other organs of the Tribunal" (ibid.). In order to improve the assistance to the Trial Chambers and the Office of the Prosecutor, the Registry was reorganized and the following four sections were established: the Court Management Section; the Lawyers and Detention Facilities Management Section; the Victims and Witnesses Unit (see rule 34); and the General Legal Services and Chambers Support Section.

59. Some of the recommendations put forward in the report have been implemented by the Registrar in cooperation with the Deputy Prosecutor. Notably, links and communication between the Registry and the Office of the Prosecutor and between the Rwanda Tribunal and the International Tribunal for the former Yugoslavia have been improved; regular meetings are now being held between the President, the Registrar and the Deputy Prosecutor; adequate measures of internal control are being established in order to monitor the compliance with United Nations rules and regulations regarding cash and property management, payroll entitlements, procurement, personnel actions and financial information; backlogs in financial reporting are being settled; and the Administrative Office in Kigali has been given the authority to provide day-to-day administrative services to the Office of the Prosecutor.

60. However, despite the recommendation in the report to appoint expeditiously a Deputy Registrar, the position remained vacant. Although there have been new appointments to the posts of chief of the Administration, Finance and Personnel sections, the significant sections such as Security and Press and Information are still being managed by Officers-in-Charge and to date no competent Professionals have been appointed as chiefs of these sections.

61. The two Trial Chambers were not able to work simultaneously because of the existence of only one courtroom, which itself is not adequately equipped. Ten of the accused have been in detention for at least one year and some have been detained for more than two years without trial. Such a situation does not conform with the objectives of rendering rapid justice. In other words, many additional steps need to be taken to ensure the smooth functioning of the Tribunal.

B. Relations with foreign Governments

62. Under the Headquarters Agreement signed on 21 August 1995 between the Tribunal and the United Republic of Tanzania (A/51/399-S/1996/778, appendix), the Registrar has held meetings on a regular basis with representatives of the Tanzanian Government concerning matters such as the security of the premises of the Tribunal, communication, privileges and immunities, etc. The Registrar has furthermore maintained close contact with Governments on which the Tribunal's warrants of arrest have been served as well as with those States that were able successfully to identify, arrest and transfer the accused to the Tribunal - notably Belgium, Cameroon, Côte d'Ivoire, Kenya, Switzerland and Zambia.

C. The Tribunal Library

63. On 17 January 1997, the Danish Government made the in-kind donation of a library to the Tribunal within the sum of DKr 549,000 (equivalent to appr. US$ 90,000). The Registrar submitted a list of some 500 books and CD-ROMs and subscriptions to a number of law journals to be purchased and ordered by the Danish Ministry of Foreign Affairs and Development Cooperation. By 1 May 1997, most of the books had arrived and had been placed at the disposal of the Judges and their legal assistants, the Registrar, the Prosecutor and the Defence counsel, thus establishing a small library. A number of books have also been

acquired under the Danish donation to supplement the Prosecutor's library in Kigali.

D. Administration

64. The Administrative and Technical Services Division provides support to all activities of the Tribunal in the following areas: Budget and Finance, Personnel, General Services, Language Services, Transport, Electronic Data Processing, Security and Communications. One priority is to establish the necessary appointment and promotion bodies with a view to gaining the approval of Office of Human Resources Management (OHRM) for autonomous personnel administration. This work began in the second quarter of 1997 and it is expected that full autonomy could be achieved by the end of the third quarter of the year.

65. Otherwise, it is the responsibility of administration to ensure an orderly yet flexible response to the needs of the functional areas established to carry out the investigative and legal work on behalf of the mission of the Tribunal. The overriding characteristic of the Tribunal's work is the uniqueness of its activities in comparison with those of other United Nations programmes and the delicate balance that must be struck among conflicting demands for timeliness, confidentiality, predictability, specialization and teamwork. For instance, the Tribunal's activities involve field investigative work which frequently is fraught with personal risks to the investigative teams and their confidential sources; custody, care and local as well as international transport of detainees who must be treated as high security risks at all times while at the same time respecting their basic human rights as detainees in a prison facility; likewise for the witnesses, whose cooperation is essential to the successful prosecution of cases before the Tribunal.

1. Budget and Finance Section

66. The budget of the Tribunal is approved on an annual basis. The level of resources appropriated for 1996 to the Special Account for the Tribunal was $40,161,900 (gross) and $36,469,700 (net). Pending a review at the resumed fifty-first session of the revised estimates for the full year 1997 and of the report of the Office of Internal Oversight Services, the General Assembly approved an appropriation of $23,114,950 (gross) ($20,846,600 (net)) under the same Special Account for the period from 1 January to 30 June 1997. It was expected that the Assembly would consider the revised estimates of the Secretary-General in May 1997 and that an appropriation for the full year would be available shortly afterwards.

67. Seventeen Member States and the Holy See have contributed generously in cash, personnel and matériél in order to advance the work of the Tribunal. Contributions to the Trust Fund for the year 1995 amounted to $5,174,846.80; for 1996 to $2,164,149.97; while contributions so far in 1997 amount to $50,000. To date, the Trust Fund has received a total of $7,388,996.77 in voluntary contributions.

68. The Trust Fund has been utilized to finance mainly the costs of leasing and operating the Beechcraft airplane for the transportation requirements between Kigali and Arusha; this involves the travel of staff on mission, new appointments en route to Kigali, as well as investigators, prosecutors and witnesses to and from the trials. Plans are being finalized to strengthen the programme on witness protection, inter alia, by upgrading the status of the group which carries out the programme of work in this area and providing necessary resources, such as unmarked vehicles for the safe transport of witnesses and leasing safe houses for their overnight stays en route to the trials.

69. A team from the Office of Internal Oversight Services conducted an audit and investigation of the Tribunal in the fall of 1996 (see sect. VI.A above). The Office became aware of serious operational and financial deficiencies and administrative shortcomings in the management of the Tribunal, which had developed virtually since inception and continued through November 1996. The Board of Auditors also conducted an audit of the Tribunal in November 1996. Many of the deficiencies, acknowledged by the management, have been or are in the process of being addressed. The report of the Office was transmitted to the General Assembly under cover of a note by the Secretary-General, to be considered in conjunction with the proposed budget of the Tribunal for 1997 at the resumed fifty-first session of the Assembly.

2. Personnel Section

70. In pursuit of the overall objective, the administration must attract and administer staff in several categories and establish consistent compensation policies which motivate staff to continue their work in the two major duty stations of the Tribunal in spite of the varying levels of hardship and risk. Personnel administration must take into account the special needs and expectations of personnel seconded from their Governments, international Professional staff, international General Service staff in the various functional areas and local staff in the two duty stations. For instance, in an effort to improve the conditions of service for Kigali, the administration has vigorously pursued approval by OHRM of entitlements to extended assignment grants, the mission approach as implemented by the United Nations Development Programme (UNDP) and occasional recuperation breaks. Further review as appropriate continues to be carried out.

71. The Tribunal as a whole suffered in its early days from a lack of staff and was often unable to attract qualified candidates. This has been partially corrected during the period under review although the Tribunal still sustains a vacancy rate in excess of 20 per cent against approved posts in key areas, for example in the Office of the Prosecutor. High vacancy rates are directly attributed to the need to find a variety of job skills for critical functions, such as bilingual secretaries, translators and revisers, court reporters in the languages of the Tribunal, prosecuting attorneys and experienced investigators with the required language skills. This is partially corrected by taking seconded personnel from the United Nations Secretariat at large, by vigorous recruitment of outside candidates including seconded government personnel, and

by tapping contractors, both individual and institutional, to fill critical needs.

3. General Services Section

72. The General Services Section of the Tribunal provides essential services in buildings management, travel, inventory control, visas and import permits, and provision of all types of supplies. The major project in which this section has been involved is the renovation of the leased premises in the Arusha International Conference Centre (AICC), which constitute four floors housing the Chambers, the legal and administrative services of the Registry, the court and office space for defence and prosecuting attorneys. Delays were encountered during the period under review in securing the approval of contracts intended to lead to the construction of the second courtroom for the Tribunal. Currently the Tribunal is pursuing a strategy developed in consultation with the Office of Conference and Support Services at Headquarters which will lead to the awarding of a contract by mid-1997 to renovate the premises leased from AICC and build the second courtroom as a matter of priority. As the work is expected to be finished by the end of the year, plans were drawn up to build a temporary courtroom to service the Tribunal in the meantime. The temporary courtroom is expected to be ready by August 1997. A general review of the premises in Kigali has been started with a view to correcting the major deficiencies of the premises there. This project will be pursued in the next few months.

4. Language and Conference Services Section

73. Until the fall of 1996, language services consisted mainly of support to the Office of the Prosecutor. This support constituted assistance to the investigative teams in interpretation from and into Kinyarwanda so that potential witnesses could be interviewed and also of translations of witness statements and the documents from one of the official languages into the other. The Language and Conference Services Section was then formally established in Arusha to support the broader needs of the Tribunal in connection with the holding of trials. The section now provides interpretation and translation services from English to French, French to English and to/from Kinyarwanda to/from both official languages of the Tribunal. These services are provided to the Chambers, the Office of the Prosecutor and to the Defence counsel in formal as well as informal settings.

74. As with other functional areas, the demands on this section are exacerbated by the difficulty in recruiting qualified personnel, especially as new requirements are identified as a result of changing circumstances. The need for accuracy is paramount as legal decisions and the outcomes of appeals will depend on the quality of the documentation in all languages, such as court records, transcripts and testimony. The second courtroom will likewise increase the demands for qualified personnel in the coming year, as additional teams of interpreters and court stenographers will be needed.

5. Security Section

75. Security concerns drive many of the activities of the Tribunal. Activities at the two duty stations are led by the Chief of Security who oversees the operations through deputies, two based in Arusha on the premises of AICC and the United Nations Detention Facility and one in Kigali, where the Tribunal's facilities are located in the Amohoro Hotel and the Communications Compound. As with other operations of the Tribunal, security operations are complicated by the need for different strategies to ensure the safety of witnesses, investigators, office staff, the higher echelon of the Tribunal and the health and safety of the accused. A mix of contingents is used to staff the various duty shifts and teams, comprising international security staff, local security staff, government operatives and prison guards as well as security contractual personnel. Requirements for security equipment, including weapons to stop assailants with lethal and non-lethal ammunition, continue to be evaluated in the light of government policy.

76. The Detention Facility is the subject of an agreement between the Tribunal and the Government of the United Republic of Tanzania involving the construction and operation modalities to ensure its autonomous operation in accordance with United Nations rules of detention. The permanent facility will comprise 40 cells, may be required to hold inmates of both sexes and was completed in May 1997. Proper health care and nutrition is provided to the detainees with a minimum of exposure to outside risks. The facility has been inspected by the International Committee for the Red Cross, which has given favourable reports on the conditions of detention. The facility currently holds 12 persons in custody with the expectation that 3 will be added in the near future.

6. Transport and EDP sections

77. Transport and electronic data processing have similar histories in the Tribunal. Both benefited from the immediate transfer of equipment from the United Nations Assistance Mission for Rwanda (UNAMIR). However, excessive wear and tear suffered by the equipment transferred to the Tribunal together with procurement delays occasioned by the lack of experienced staff have led to critical shortages of serviceable equipment. Shortages which otherwise would have brought field investigations to a standstill were partly mitigated by government donations of automobiles and laptop computers. As regards transport, the purchase of new vehicles has made it possible to terminate lease agreements which were not cost-effective for the Tribunal. The delivery of new vehicles for Kigali is expected in the near future. The arrival of new office automation equipment in the near future following the conclusion of procurement actions this year is expected to lead to major improvements in the work methods of the Tribunal. The safety of witnesses and detainees is assured by the appropriate transportation equipment, namely, by the acquisition of an armoured truck and the procurement of four armoured vans, which will arrive shortly in Arusha.

7. Communications Section

78. Communications is likewise an important arm of the Tribunal where the various needs are as diverse and as specific as in other areas. Equipment in courtrooms must enable participants to use simultaneous interpretation, recording and infrared rebroadcasting of the three languages to the courtroom and to visitors in the gallery.

79. Other milestones in communications involve support to transport and security operations by the installation of VHF repeaters; full support of field investigations by provision of mobile HF, VHF and satellite communications; and installation of back-up generators with mains failure panel for Headquarters and the United Nations Detention Facility. Two improvements in this area are expected when the computers on order arrive, namely the introduction of electronic mail and access to the Internet.

8. Press and Information Section

80. The Press and Information Section was established in May 1996. It is currently composed of two journalists and a secretary. One of the journalists currently serves as Officer-in-Charge of the section.

81. The section produces a summary of all the news circulated by the Rwandan, national and international press having a direct or indirect impact on the Tribunal. It maintains a collection of press clippings from the major international newspapers and issues press releases covering the main events to occur at the Tribunal. In June 1997, the first edition of a Tribunal newsletter was published. The section also produces an information document which constitutes an introduction to the Tribunal and includes a monthly update of events. A file is kept for each of the accused and copies of all public documents are available to visitors. This work is currently being carried out by a non-profit association. Most documents are available in the two official languages of the Tribunal, French and English. Some documents will also be translated into Kinyarwanda.

82. A network of media contacts has been established and the section maintains a database of approximately 200 addressees. The section sends information by fax, post (DHL) and by hand to those visitors to the Tribunal who wish to receive further information. The information pertaining to Rwanda is covered by the information office at Kigali.

83. At the last plenary, the judges criticized the functioning of the section. They felt that the international community was not adequately informed about the activities of the Tribunal, and that the world community had a perception that nothing much is going on there. Since only limited information was transmitted to the international community and few arrangements had been made to accommodate the needs of journalists, many were reluctant to provide coverage of the Tribunal.

84. The section is currently understaffed. There is also a lack of a transparent and coherent strategy for the near, the medium as well as the long

term for publicizing the work of the Tribunal, which is proactive, rather than reactive. And there is a dire need to staff the section with properly qualified and competent media people at the earliest opportunity.

85. There is also an urgent need to initiate appropriate measures to inform and educate the international community about the extent and scope of the work done by the Tribunal to dispel the misconceptions about the work of the Tribunal.

Appendix I

[Original: French]

Cash contributions by Governments to the Trust Fund

(United States dollars)

Donor	1995	1996	Country total
Belgium	1 115 950	1 589 500	2 705 450
Canada	367 450	367 400	734 850
Chile	1 000		1 000
Denmark	43 452		43 452
Egypt	1 000		1 000
Greece	20 000		20 000
Holy See	3 000		3 000
Ireland	79 226	158 478	237 704
Israel	7 500		7 500
Lebanon	3 000		3 000
Netherlands	2 995 531		2 995 531
New Zealand	34 792		34 792
Norway	49 983		49 983
Spain	150 000		150 000
Sweden	68 729		68 729
Switzerland	75 757	112 250	188 007
United Kingdom of Great Britain and Northern Ireland		95 000	95 000
United States of America			50 000
Total	5 016 374	2 322 628	7 388 998

Appendix II

Crimes falling under the jurisdiction of the Tribunal

1. The Tribunal is competent to prosecute persons responsible for having committed one or more of the following three crimes: genocide (article 2, paragraph 2); crimes against humanity (article 3); and violations of article 3 common to the Geneva Conventions and of Additional Protocol II (article 4).

2. Genocide can be committed irrespective of any armed conflict and comprises certain crimes (such as killing or causing serious bodily or mental harm to members of a particular group) committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. Each of these particular elements has to be proved beyond a reasonable doubt by the Prosecutor in relation to the accused before the Tribunal can convict him or her for genocide. Conspiracy, direct and public incitement, and attempt to commit genocide are also punishable under article 2, paragraph 3, of the statute as inchoate offences.

3. Crimes against humanity require that certain capital crimes (such as murder, extermination, imprisonment, torture, rape or persecution on political, racial and religious grounds) are committed as part of a widespread and systematic attack against any civilian population on national, political, ethnical, racial or religious grounds. Each of these various elements has its particular meaning and has to be proved beyond a reasonable doubt by the Prosecutor as a precondition of any conviction. Contrary to what is required by the corresponding provision in the statute for the International Tribunal for the Former Yugoslavia, crimes against humanity can be prosecuted by the Rwanda Tribunal irrespective of whether or not the existence of an armed conflict in Rwanda has been established. This distinction reflects the fact that the conflict in Rwanda was internal and thus did not involve the armed forces of another country.

4. Serious violations of article 3 common to the Geneva Conventions of 1949 and of Additional Protocol II, are the only crime within the statute for the Rwanda Tribunal which is inextricably linked to the existence of an armed conflict, since the Geneva Conventions only apply in time of war. In respect of this crime, consequently, the Prosecutor shall have to prove that an armed conflict existed in Rwanda between two (or more) armed forces capable of controlling the activities of their combatants. Violations of this provision of the statute include murder, cruel treatment such as torture or mutilation, collective punishments, outrages upon personal dignity, in particular humiliating and degrading treatment, rape and any form of indecent assault, pillage, etc.

5. In addition to these three different crimes, article 6, paragraph 1, of the statute further imposes individual criminal responsibility on any person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of any of the three crimes of the statute. Paragraph 2 goes on to establish that the official position of an accused person as Head of State or Government or as a responsible government official shall not

relieve him or her of criminal responsibility. Paragraph 3 further incriminates the superior for crimes committed by his or her subordinates if the superior knew or had reason to know that the subordinates were about to commit the crime and the superior then failed to take the necessary or reasonable measures to prevent such acts or to punish the perpetrators thereof. Article 6, paragraph 4, establishes that acting upon orders from a superior does not relieve the perpetrator of a crime from criminal responsibility, although this may be considered in mitigation of the punishment.

Appendix III

Details of offences with which the detainees are being charged

Name	Former official function	Date of confirmation of indictment	Offences charged	Date and place of arrest	Date of transfer
Kayishema and Ruzindana (ICTR-95-1-T)	Prefect in Kibuye; businessman	28 November 1995	Massacres at the Catholic Church, the St. Jean Home, the stadium, the Church in Mubuga and in Bisesero. Held individually responsible under article 6, paragraph 1, of the statute for genocide, crimes against humanity and serious violations of article 3 common to the Geneva Conventions and Additional Protocol II.	10 October 1995 in Zambia 20 September 1996 in Kenya	26 May 1996 22 September 1996
Rutaganda (ICTR-96-3-T)	Agricultural engineer and businessman	16 February 1996	Held individually responsible under article 6, paragraph 1, of the statute for genocide, crimes against humanity and serious violations of article 3 common to the Geneva Conventions and Additional Protocol II.	10 October 1995 in Zambia	26 May 1996
Akayesu (ICTR-96-4-T)	Bourgemaster of Taba	16 February 1996	Individually charged with genocide, crimes against humanity and serious violations of article 3 common to the Geneva Conventions and Additional Protocol II. Further held responsible under article 6, paragraph 3, for the acts of his subordinates.	10 October 1996 in Zambia	26 May 1996
Bagosora (ICTR-96-7-T)	Directeur de Cabinet of the Ministry of Defence	10 August 1996	Alleged that Bagosora, being a superior, knew, or had reason to know, that his subordinates were about to commit one or several of the acts referred to in the statute, or had done so, and failed to take the necessary and reasonable measures to prevent or punish such acts. Held responsible under article 6, paragraph 3.	9 March 1996 in Cameroon	23 January 1997
Ndayambaje (ICTR-96-8-T)	Bourgemaster of Muganza Commune in Butare	20 June 1996	Charged with genocide, crimes against humanity and serious violations of article 3 common to the Geneva Conventions and Additional Protocol II. Further held responsible under article 6, paragraph 3, for the acts of his subordinates.	28 June 1995 in Belgium	8 November 1996
Ntaganzwa (ICTR-96-9-I)	Bourgemaster of Nyakizu Commune in Butare	21 June 1996	Charged with genocide, crimes against humanity and serious violations of article 3 common to the Geneva Conventions and Additional Protocol II. Further held responsible under article 6, paragraph 3, for the acts of his subordinates.	..	..

Name	Former official function	Date of confirmation of indictment	Offences charged	Date and place of arrest	Date of transfer
Ntakirutimana and Ntakirutimana, Ruzindana and Sikubwabo (ICTR-96-10-T)	Seventh Day Adventist pastor; medical doctor; businessman; Bourgemaster of Gishyita	20 June 1996	Responsible for massacres at the Mugonero Complex in Gishyita Commune, Kibuye Prefecture. Charged with all three crimes of the statute. Sikubwabo is also charged under article 6, paragraph 3, because of his position of Bourgemaster.	E. Ntakirutimana - 29 September 1996 in the United States G. Ntakirutimana - 29 October 1996 in Ivory Coast	Not yet transferred 30 November 1996
Ntagerura (ICTR-96-10A-T)	Minister of Transport and Communications	10 August 1996	Charged with six counts: genocide, conspiracy to commit genocide, complicity in genocide, crimes against humanity, serious violations of article 3 common to the Geneva Conventions and Additional Protocol II. Also charged under article 6, paragraph 3.	27 March 1996 in Cameroon	23 January 1997
Nahimana (ICTR-96-11-T)	Senior representative of Radio Télévision Libre des Milles Collines (RTLM)	12 July 1996	Alleged that Nahimana exercised control or had the opportunity to exercise control over the programming, operations and finances of RTLM. RTLM was used to broadcast messages designed to achieve inter-ethnic hatred and encourage the population to commit genocide. Charged with direct and public incitement to commit genocide contrary to articles 2 (3) (c), 6 (1) and/or 6 (3).	27 March 1996 in Cameroon	23 January 1997
Ndengiyumva (ICTR-96-12-T)	Lieutenant-Colonel in the Rwanda army; Commander of military operations in Gisenyi Prefecture	12 July 1996	Charged with four counts of direct and public incitement to commit genocide, as well as crimes against humanity and violations of article 3 common to the Geneva Conventions and Additional Protocol II. Also charged under article 6, paragraph 3, for his command responsibility for crimes committed by his subordinates.	27 March 1996 in Cameroon	23 January 1997
Musema (ICTR-96-13-I)	Director of Gisovu tea factory in Kibuye Prefecture	15 July 1996	Under article 6, paragraph 1, the indictment holds Musema individually responsible for crimes relating to his involvement in the massacres in Bisesero. Therefore he is charged with all three crimes of the statute and for the crimes of his subordinates under article 6, paragraph 3.	11 February 1995 in Switzerland	20 May 1994
Niyitegeka (ICTR-96-14-I)	Minister of Information of interim Government	15 July 1996	Charged with all three crimes falling under the jurisdiction of the Tribunal in relation to his involvement in the massacres in Bisesero.	..	..
Kanyabashi (ICTR-96-15-T)	Bourgemaster in Ngoma Commune	15 July 1996	Charged with involvement in the massacres in Ngoma and Matyazo. Charged with all three crimes of the statute and with responsibility for the acts of his subordinates under article 6, paragraph 3.	28 June 1996 in Belgium	7 November 1997

Name	Former official function	Date of confirmation of indictment	Offences charged	Date and place of arrest	Date of transfer
Ntakirutimana and Ntakirutimana (ICTR-97-17-T)	Elizaphan Ntakirutimana - pastor; Gerard Ntakirutimana - doctor	7 September 1996	The indictment alleges that during the months of April through June 1994 in the area of Bisesero, in Gishyita and Kisovu communes, Kibuye Prefecture, the accused were partly responsible for the killing of people who had survived and fled the previous massacres in Kibuye. Both charged with all three crimes of the statute.	29 September 1996 in the United States 29 October 1996 in Côte d'Ivoire	.. 30 November 1997

Appendix IV

List of assigned counsel

Counsel	Country of origin	Accused	Case number
Mr. Nicholas Tiangaye	Central African Republic	Jean-Paul Akayesu	ICTR-96-4-T
Mr. Patrice Monthe	Cameroon		
Ms. Emily Wiinblad (legal assistant)	Denmark		
Mr. Benjamin Ondingui	Cameroon	Theoneste Bagosora	ICTR-96-7-T
Mr. Andre Ferran	France	Clement Kayishema	ICTR-95-I-T
Mr. Philippe Moriceau	France		
Mr. Jean-Marie Biju-Duval	France	Ferdinand Nahimana	ICTR-96-11-T
Mr. Luc De Temmerman	Belgium	Georges Anderson Nderumbumwe Rutaganda	ICTR-96-3-T
Ms. Tiphanie Dickson	Canada		
Mr. Fakhy Konate	Côte d'Ivoire	André Ntagerura	ICTR-96-10A-T
Mr. Pascal Besnier	France	Obed Ruzindana	ICTR-95-I-T
Mr. William Frederik Van Der Griend	Netherlands		ICTR-96-10-T
Mr. Evans Monari	Kenya	Joseph Kanyabashi	ICTR-96-15-T
Mr. Michel Marchand	Canada		
Mr. Charles Tchougang	Cameroon	Elie Ndayambaje	ICTR-96-8-T
Mr. Loomu-Ojare	United Republic of Tanzania	Gerald Ntakirutimana	ICTR-96-10-T
			ICTR-96-17-T
Mr. Kennedy Ogetto	Kenya	Anatole Nsengiyumva	ICTR-12-T
Ms. Marie-Paule Honegger	Switzerland	Alfred Musema	ICTR-96-13-I

Appendix V

Recent developments

1. Since the drafting of this annual report a number of important events and decisions have occurred in relation to the work of the Tribunal. These developments demonstrate that the International Criminal Tribunal for Rwanda is still as determined as ever to reinforce its credibility and achieve its goal of bringing justice to those involved in the genocide.

2. On 10 July 1997, the Defence Counsel for Joseph Kanyabashi, Mr. Evans Monari, filed a Notice of Appeal before the Appeals Chamber at The Hague to appeal the decision rendered by Trial Chamber 2 on 18 June 1997, in which the Trial Chamber had dismissed his motion challenging the jurisdiction of the Tribunal. The Appeals Chamber returned the Notice of Appeal because it failed to set forth the grounds of appeal as required by rule 108, and the Appeals Chamber therefore extended the time limit in order to allow the Defence Counsel to file a new Notice of Appeal. However, in a rather surprising development on 6 August 1997, the appellant Joseph Kanyabashi officially withdrew his appeal against the Trial Chamber's decision of 18 June 1997.

3. In the case of Gérard Ntakirutimana, the issue of assignment of counsel was once again brought to the attention of Trial Chamber 1. Following numerous letters addressed to the President of the Tribunal, the accused requested that his counsel Mr. N. K. Loomu-Ojare be replaced on the ground that he had lost faith in the said counsel. A decision was rendered on 11 June 1997, with two of the three judges in agreement, dismissing the request made by Ntakirutimana. Judge Yakov Ostrovsky gave a dissenting opinion on one issue in relation to the interpretation of article 20 (4) (d) of the statute. He believed that while the defendant should not have an absolute right to choose his own counsel, the Registrar should act in consultation with the accused. In the instant case, he considered that the Registrar had acted autonomously, which had led to a situation where the accused was alleged to have lost confidence in his assigned counsel.

4. On 18 July 1997, the Tribunal became involved in an operation code-named "Naki" (Nairobi-Kigali). In a wave of arrests carried out by the Kenyan police authorities, seven key Rwandan figures suspected of having participated in the genocide were arrested and handed over to the Tribunal.

5. These arrests put an end to the belief that the Tribunal was not interested in trying those in authority. The seven people arrested were a former minister of the Government of President Habyarimana, Pauline Nyiramasuhuko, the first woman to be indicted by an international court; Gratien Kabiligi and Aloys Ntabakuze, Commanders in the Rwandan army; Sylvain Nsabimana, former Prefect of Butare; Hassan Ngeze, former Editor-in-Chief of the Kangura Newspaper, responsible for publishing articles intended to incite violence and hatred against the Tutsis; Georges Ruggiu, a Belgian journalist and the only non-Rwandan to be accused by the Tribunal; and Jean Kambanda, the former Prime Minister of the Interim Government during the time of the conflict in Rwanda.

6. Six of the seven suspects were arrested by an order for Transfer and Provisional Detention, made under rule 40 bis and signed by Judge Laity Kama on 16 July 1997. Pauline Nyiramasuhuko was the only one of those arrested to have already been indicted by the Tribunal. Her indictment was confirmed by Judge Ostrovsky in May 1997.

7. The suspects were immediately transferred to the United Nations Detention Facility in Arusha where they are currently being detained under rule 40 bis. The Office of the Prosecutor is in the process of preparing indictments against the six men.

8. On 24 July 1997, Arsène Shalom Ntahobali, the son of Pauline Nyiramasuhuko, was arrested in Kenya and transferred to the Detention Facility in Arusha. Ntahobali has also been indicted by the Tribunal in a joint indictment with his mother.

9. At the expiration of the initial 30-day detention period provided for under rule 40 bis, the Prosecutor appeared before Judge Laity Kama to request an extension of the provisional detention in the case of Jean Kambanda, Hasan Ngeze, Sylvain Nsabimana, Aloys Ntabakuze, Georges Ruggiu and Gratien Kabiligi. The Prosecutor cited among his reasons for the request the complexity of the investigations and the current situation in Rwanda. Believing that the Prosecution was justified, Judge Kama granted the order for a further 30 days' provisional detention. A second and last order for extension of the preliminary detention of these suspects has been granted by Judge Pillay.

10. Two final arrests took place in August. The first occurred in Kenya when Samuel Emanishimwne, a Lieutenant in the FAR, was apprehended in Nairobi. He was transferred to the Detention Facility in Arusha on 12 August 1997. The second arrest was that of the former Education Minister of Rwanda, Mr. Andre Rwamakuba, who is currently being detained in Namibia where he had been working as a doctor. The Namibian Government has promised to hand over Rwamakuba to the Tribunal.